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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 10/660,331 | 09/11/2003 | Dennis Schultz | HISHE:65460 | 5970 |
| 24201 | 7590 | 08/15/2006 | EXAMINER | |
| FULWIDER PATTON 6060 CENTER DRIVE 10TH FLOOR LOS ANGELES, CA 90045 | | | SAETHER, FLEMMING | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3677 | |

DATE MAILED: 08/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/660,331 | SCHULTZ, DENNIS | |
| | Examiner | Art Unit | |
| | Flemming Saether | 3677 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barlow (US 3,72,904) in view of Colvin (US 4,930,378). In the embodiment of Fig. 4, Barlow discloses a fastener having a socket drive (27) comprising a plurality of equally spaced, inwardly directed, rounded lobes (31-33) of equal radius and equidistant from the axis of the fastener and a corresponding plurality of surfaces (28-30) shown as flat each located opposite a lobe and also equidistant from the center. Since the claims are directed to a fastener, the clearance between the lobes and the key driver is considered an intended use of which the Barlow would be capable depending upon the size of the fastener. There are further defined "recesses" at a location where the flat surfaces transition to the rounded lobes but, the recesses are not disclosed as being curved. Colvin discloses a similar socket and teaches the equivalence between a transition which is not curved and smooth (see Figs. 15 or 16) and a transition which is curved (see Fig. 4). Therefore, at the time the invention was made, it would have been obvious for one of ordinary skill in the art to replace the not curved transition in Barlow with a curved and smooth transition as disclosed in Colvin since Colvin teaches their equivalence.

Claims 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Allen (US 960,244) in view of Anderson (US 5,960,681) and further in view of Colvin (US 4,930,378). Allen discloses a conventional type fastener having a hexagonal recess for receiving an allen wrench but, does not disclose the recess provided with rounded lobes. Anderson discloses a fastener driver also having a hexagonal recess but, in Anderson the recess is provided with a plurality of equally spaced, inwardly directed, rounded lobes (34) of equal radius and equidistant from the axis of the fastener and a corresponding plurality of flat surfaces (28-32) each located opposite a lobe and also equidistant from the center for gripping the fastener with a recess formed between each lobe and flat surface. At the time the invention was made, it would have been obvious for one of ordinary skill in the art to provide the recess of Allen with lobes as disclosed in Anderson for the purpose of gripping the driver. The fastener being gripped to the driver would facilitate insertion and removal of the fastener by preventing the fastener and driver from being easily separated. Again, since the claims are directed to a fastener, the clearance between the lobes and the key driver is considered an intended use of which the Barlow would be capable depending upon the size of the fastener. Modified Allen discloses recesses between the rounded lobes and flat surfaces but, does not disclose the recesses to be curved. Colvin discloses a similar socket and teaches the equivalence between a transition which is not curved and smooth (see Figs, 15 or 16) and a transition which is curved (see Fig. 4). Therefore, at the time the invention was made, it would have been obvious for one of ordinary skill in

the art to replace the not curved transition in modified Allen with a curved and smooth transition as disclosed in Colvin since Colvin teaches their equivalence.

Response to Remarks

As can be recognized above, the rejection remains unchanged.

Applicant argues that the claims define over the combination of Barlow in view of Colvin because the reference to Colvin fails to disclose a curved recess between a non-contact section and a rounded lobe apparently because there is a non-contact flat surface (34) interposed between the contact and non-contact sections. In response, while the examiner agrees with applicant's understanding of Colvin but, does not agree with applicant's conclusion for two reasons. First, the claims do not preclude the inclusion of the flat non-contact surface and second Colvin is relied upon only for the teaching of the equivalence between curved and non-curved recesses since the recesses between the rounded lobes and non-contact sections is already disclosed in Barlow.

In regards of the combination of Allen, Anderson and Colvin, the applicant again argues that Colvin fails to disclose a curved recess between a non-contact section and a rounded lobe. In response, the examiner again disagrees for the reasons set forth directly above.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

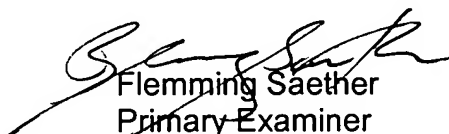
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Flemming Saether whose telephone number is 571-272-7071. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3677

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Flemming Saether
Primary Examiner
Art Unit 3677